

## Internal Revenue Service, Treasury

## § 49.4263-6

4263(d)) shall be established by the use of exemption certificate, Form 731. See section 4292 and the regulations thereunder for the rules applicable when the right to exemption is evidenced by exemption certificates.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11225, Nov. 14, 1962]

### § 49.4263-4 Members of the armed forces.

The tax imposed by section 4261 does not apply to amounts paid for transportation or for seating or sleeping accommodations furnished under special tariffs providing for fares of not more than 2.5 cents per mile applicable to round-trip tickets sold to personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, including authorized cadets and midshipmen, traveling in uniform of the United States at their own expense when on official leave, furlough, or pass. A person claiming exemption under this section will be required to exhibit to the agent of the carrier a properly executed certificate to show that he is traveling on official leave, furlough, or pass, but the submission of an exemption certificate on Form 731 is not necessary in such case.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11226, Nov. 14, 1962]

### § 49.4263-5 Small aircraft on nonestablished lines.

(a) *In general.* Amounts paid for the transportation of persons on a small aircraft of the type sometimes referred to as "air taxis" shall be exempt from the tax imposed under section 4261 provided the aircraft (1) has a gross take-off weight of less than 12,500 pounds determined as provided in paragraph (b) of this section and (2) has a passenger seating capacity of less than 10 adult passengers, including the pilot. The exemption does not apply, however, if the aircraft is operated on an established line.

(b) *Determination of gross take-off weight.* The term "gross take-off weight of less than 12,500 pounds" means a maximum certificated take-off weight of less than 12,500 pounds. This shall be based on the maximum certificated take-off weight shown in the aircraft operating record or aircraft flight

manual which is part of the air worthiness certificate issued by the Federal Aviation Administration.

(c) *Established line.* The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11226, Nov. 14, 1962]

### § 49.4263-6 Exemptions applicable with respect to transportation beginning before November 16, 1962.

Section 5(b) of the Tax Rate Extension Act of 1962 repealed the exemptions contained in former section 4263(b) for motor vehicles with seating capacity of less than ten and in former section 4263(c) for fishing trips by boat effective with respect to transportation beginning after November 15, 1962. With respect to transportation which began before November 16, 1962, the tax imposed by section 4261 does not apply with respect to any amount paid for transportation.

(a) By a motor vehicle having a seating capacity of less than ten adult passengers, including the driver, unless such vehicle is operated on an established line, or

(b) By boat where the transportation is for the purpose of fishing from such boat.

In the case of the exemption with respect to a motor vehicle having a seating capacity of less than ten adult passengers, the terms "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that